MM Docket 92-263
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Congress of the United States
House of Representatives
Washington, D.C.

MMB/TV CATV-Rate 3338

8/10/93, 1993

Congressional Liaison
FCC
1919 M Street NW
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Sir/Madam:

The attached communication is sent for your consideration. Please investigate the statements contained therein and forward me the necessary information for reply, returning the enclosed correspondence with your answer.

Yours truly,

Maurice D. Hinchey

Maurice D. Hinchey, M.C.

Please reply to:

Congressman Maurice D. Hinchey
Carriage House - Terrace Hill
Ithaca, New York 14850

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July 21, 1993

The Honorable James H. Quello
Chairman
Federal Communications Commission
1919 M Street N.W. Room 802
Washington, D.C. 20554

Dear Chairman Quello,

I understand that you would like specific examples of how the present regulations that will go into effect this fall will affect small, rural density cable systems (under 1000 subscribers)

My Mom, Dad and I operate such a system. There are approximately 450 subscribers spread out over 30 miles of cable plant. This yields 15 subscribers per mile. This is less than half the avearge of 37.75 subs/mile that is in the F.C.C. database.

On a per subscriber basis, it is much more expensive to build, operate and maintain a low density system. Operating costs are higher in terms of electricity, various land school taxes and pole rental charges on a per subscriber basis. We rent 1.5 poles for each subscriber!! Our cost per subscriber for pole rental is $13.90 per sub per year. Compare this with a suburban, densely populated area that has 4 subscribers per pole. Based on the same pole rental rates, their pole rental per subscri er is $2.32! The higher cost of providing service in a small rural cable system begins at the headend where we must receive and process the signals, just like the larger systems do. The differance is that we have 450 subscribers to spread that our over versus a suburban system of perhaps 80,000 subscibers. Our costs for obtaining the exact same programming as the larger systems is at least 20% higher that a large cable system. We pay more even though it costs no more for ESPN or CNN to provide programming to us that does to larger systems. In addition, it is not cost effective for small systems to insert local advertising on the cable channels, another source of revenue for the large systems.

In conclusion, all these factors work against the small cable system operator. The present benchmark method of determining ratesdoes not take these factors into account and puts us at a disadvantage. We have been providing cable service to a previously unserved area for 5 years. For four of those years, I took no salery as we continued to buy equipment and extend the cable service to less dense area's. We did large portions of the work ourselves to keep the costs down. Today Mom and Dad still work for zero salery.

We are going to find it very difficult to extend the cable service into new area's and to maintain the channel variety and service standards in the existing plant under the present benchmark rates.

Please consider small system operation in your review of rate regulation and the other aspects of the 1992 Cable Act.

Sincerely,

Herb Longware

slf/

July 13, 1993

Delivered by Hand

The Honorable James H. Quello
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Re: MM Docket No. 92-266
MM Docket No. 92-263

Dear Chairman Quello:

Following up your statements regarding the plight of small cable operators in complying with the 1992 Cable Act ("the Act"), we write to urge the Commission to take actions to alleviate unnecessary burdens on these operators. We believe, based upon extensive consultations with our members, that failing to act will seriously impede the ability of small cable systems to provide quality service to subscribers.

The Commission recognizes that Section 623(i) of the Act "requires that the Commission develop and prescribe cable rate regulations that reduce the administrative burdens and cost of compliance for cable systems that have 1,000 or fewer subscribers." Moreover, the public interest standard authorizes exceptions to the general rule where justified. We applaud your public commitment to work to alleviate small system burdens. We urge the Commission:

- To permit small operators to justify their current rates based on a simplified net income analysis. A simple comparison of total system revenues to operating expenses, depreciation and interest expenses for some specified prior period would demonstrate whether the system's current rates require any further examination. A net income analysis would be much simpler to calculate and apply than the benchmark approach.

- To permit small operators to increase rates to the benchmark cap. The Commission has found that rates at or below the national cap are "reasonable." By affording small operators presently charging rates below the cap the option to increase rates to the cap, these systems will retain the flexibility needed to generate necessary capital.

- To authorize small operators to base rates on the bundling of service and equipment charges. The requirement that operators "back out" equipment costs based on "actual cost" from the benchmark rates is a particularly onerous procedural requirement. The Commission should adopt a mechanism that does not force small operators to engage in these calculations.

- To allow small operators to pass-through rebuild costs. Small operators are generally located in rural areas. Congress and the Commission have long advocated special regulatory treatment to make state-of-the-art communications technology available to rural areas. Permitting small operators to pass-through rebuild costs will increase the chances that rural subscribers promptly gain the benefits of state-of-the-art technology.

- To clarify that the customer service requirements that do not require small operators maintain local offices in each service area community. The local office rule will prove exceptionally onerous for many small operators. Under the rule, a system serving several communities of perhaps 100 subscribers would be obligated to bear the costs of local offices in each community. Any benefits would be clearly outweighed by the costs.

- To commence a rulemaking addressing small system regulatory concerns. The Commission should comprehensively examine, in a separate proceeding, the impact of its regulations on small operators. This rulemaking should identify regulations which, when applied to small operators, are presumptively more harmful than beneficial. It should also discuss alternatives to benchmark regulations for small systems such as system profitability or level of net income. Small operators should be permitted to seek waivers of the identified regulations, with the burden placed on those who favor application of these regulations to the small operators.

We believe that taking these steps will enable small operators to serve their subscribers efficiently, while simultaneously maintaining the Act's consumer protections.

We have filed a copy of this letter with the Secretary for inclusion in the appropriate dockets.

Sincerely,

David D. Kinley
David D. Kinley JJG
Small Cable Business Association

Michael J. Pohl
Michael J. Pohl for JJG
Coalition of Small System Operators

Stephen R. Effros
Stephen R. Effros JJG
Community Antenna Television Association

Decker Anstrom
National Cable Television Association

cc: The Honorable Andrew C. Barrett
The Honorable Ervin S. Duggan

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A MATTER OF SURVIVAL:

REGULATORY RELIEF FOR SMALL CABLE SYSTEMS

Operators of small cable systems--serving 1,000 subscribers or less--have been put at great risk by the breadth and complexity of the FCC's new rate regulation rules. These systems account for more than half the 11,000 cable systems nationwide, serving mostly rural areas. <u>They lack the human and financial resources to bear the burden of a regulatory regime requiring professional accountants, creation of new accounting and monitoring systems, and severe restrictions on their ability to recover costs</u>.

In short, they and their subscribers need a way out of the maze of rate regulation. The FCC should consider the following steps for small systems:

- Begin a rule making immediately to consider the overall impact of the FCC's rules on small operators.
- Adopt rate regulation rules that are less complicated and offer the flexibility needed for system growth.
- Permit rate regulation alternatives based on level of net income or a national mean rate.
- Allow systems to increase rates to the benchmark cap, or eliminate caps entirely.
- Allow systems to pass through to subscribers costs associated with expansion and providing new services.
- Permit systems to base rates on the bundling of service and equipment charges.
- Eliminate from any sample of rates "competitive" systems, which are likely to be charging artificially low prices.
- Include more small systems in samplings used to construct benchmark rates, and consider the density of their service areas in determining those rates.
- Clarify that the customer service rules do not require that systems maintain a local office in each service area community, and that they should conform with franchise requirements.

These actions would reduce the onerous regulatory burden faced by small systems, enable them to better serve their subscribers, yet maintain the Cable Act's various consumer protections.

Local Channels Bump C-SPAN in Some Areas Because of Cable Bill's 'Must Carry' Provision

Some 800,000 Homes Have Lost Service Since Congress Passed Measure Last Year

By Timothy J. Burger

C-SPAN, Congress's direct pipeline to constituents' living rooms, is losing channels and viewers for the first time in its history after — ironically — a law Congress passed last year over a presidential veto.

The chairman and CEO of C-SPAN, Brian Lamb, told Roll Call Friday that about 800,000 homes around the country have lost total or partial C-SPAN service since Congress passed a cable television regulation bill nine months ago. More losses could be on the horizon.

Cutbacks are occurring because a provision in the new law says that cable companies "must carry" certain local public service channels, and some companies are dropping C-SPAN to make room.

About 59.4 million viewers now have access to the Cable Satellite Public Affairs Network on 4,401 local systems. Only 20 systems have dropped or curtailed C-SPAN broadcasts. But there is no way of predicting how many more might do so.

Lamb has joined a lawsuit filed by the Turner Broadcasting System challenging the cable bill's constitutionality, and the House Energy and Commerce Committee is monitoring its effects, looking to possible amendments of the law passed in October over President Bush's veto.

C-SPAN's Brian Lamb has signed a lawsuit, filed by the Turner Broadcasting System, challenging the cable bill's constitutionality. He predicted the loss of viewers last year.

Some 200,000 of C-SPAN's viewer losses have occurred in Southern California, where Paragon Cable has severely cut back its C-SPAN broadcasts.

Rep. Dana Rohrabacher (R-Calif), who represents Huntington Beach, where Paragon operates, said, "It's ironic that the politicians who were offering something for nothing are now the ones having their debates cut off the air."

Another 75,000 lost viewers live in Steubenville, Ohio, where C-SPAN has been dropped by the cable company TCI.

"TCI took a poll and they said that C-SPAN was the least watched," Ohio Rep. Doug Applegate (D) told Roll Call on Friday. "And so they took it off and they put on a third public TV station. How many times can you watch 'Mr. Rogers?'" Applegate voted in favor of the cable bill.

Lamb said that until the cable bill was passed, "in a very competitive market place, our numbers were going up, up, and up."

"This is the first time — and this is a direct result of this legislation — that we are losing" potential viewers. "This was a very punitive piece of legislation and we are one of the victims."

"It's sad that these people who have gotten used to watching their Congress in action and go through all these issues on a day-to-day basis are out of luck."

An aide to the House Energy and Commerce Committee chairman, Rep. John Dingell (D-Mich), said that C-SPAN cutbacks are among the many side effects of the bill's implementation that the panel is watching.

"It is a matter that he is monitoring," the aide said. "It could be addressed in any number of ways. But no decision's been made. It's too early to make any judgment as to how widespread this is...how many systems, how many subscribers have been affected this way. In the chairman's case, he will want to have the facts in hand before making any decision."

This is likely to come around mid-October, after local cable systems have determined which national programming must be displaced to make room for local stations under the "must carry" provision.

Lamb testified in June 1991 against the "must carry" provision, predicting exactly what is now happening to his network.

Lamb told Roll Call that within three to five years, technology will likely make it possible to expand the number of channels a cable system can carry, so that compliance with "must carry" won't exclude networks like C-SPAN.

Meanwhile, "it's like we've been at battle stations for the last six months to a year," he said.

Baseball

The annual Roll Call Congressional Baseball Game is slated for Tuesday, Aug. 3, at Four Mile Run Park in Alexandria. Special souvenir program to be published Monday, Aug. 2. An extra 3,000 copies for Game Day! Advertisers call Room ...